

**AT A WORKSHOP OF THE BOARD OF COUNTY  
COMMISSIONERS IN AND FOR GADSDEN COUNTY,  
FLORIDA HELD ON DECEMBER 18, 2018 AT 4:30 P.M.,  
THE FOLLOWING PROCEEDING WAS HAD, VIZ:**

**Present:**       **Dr. Anthony “Dr. V” Viegbesie, Chair, District 2-present**  
                  **Sherrie Taylor, Vice Chair, District 5-present**  
                  **Eric Hinson, District 2-absent**  
                  **Gene Morgan, District 3-present**  
                  **Brenda Holt, District 4-arrived late**  
                  **Dee Jackson, Interim County Administrator**  
                  **David Weiss, County Attorney**  
                  **Marcella Blocker, Deputy Clerk**

**INVOCATION, PLEDGE OF ALLEGIANCE**

Chair Viegbesie called the Workshop to order at 4:36 p.m. and said it was a Policy Development Workshop to revise a BOCC Overtime policy to develop a more general one. It was not to discuss an explanation and justification of the Hurricane Michael’s overtime payments. He suggested they remain focused on their purpose for this meeting. He said he wanted to make this for the development of their overtime payment policy that would be applicable to all future situations, whether disaster or not. He said if there was a need to discuss the Hurricane Michael situation, it should be adgendaed and take action on what course of action that should be taken to resolve what happened at that particular time.

**GENERAL BUSINESS**

**1. Welcome**

**2. Discussion of Overtime Policy and Procedures**

Mr. Weiss said he emailed out this morning the current Personnel Policy that included provisions for overtime that establishes overtime and is consistent with what was in the Fair Labor Standards Act. He said Non-exempt employees were entitled to overtime compensation for any hours worked in excess of 40 hours during a work week period and entitled to compensation at time and a half. He said it did not apply to exempt employees and said he was unsure who exactly that would be but thought it pertained to Directors and the County Administrator.

Commissioner Morgan asked if it would be fair to say exempt versus non-exempt or salary versus hourly paid employees for the most part and Mr. Weiss said yes, that was correct if they looked at it that way. He added that time and a half does not apply to exempt employees; they are entitled to compensatory leave credit rather than payment. He said that was generally what was in their policy currently and was consistent with the Fair Labor Standards Act but nothing to say that they could not change the policy under certain circumstances. He added that the Fair Labor Standards Act set the floor but not the ceiling.

Chair Viegbesie asked if they had anything in the Previous Administrator’s contract regarding overtime that they could incorporate into the policy and Mr. Weiss said no. He said there was nothing in the previous County Administrator’s contract that addressed overtime compensation

and he thought the Administrator was exempt and did not know if the Administrator was ever paid overtime. With respect to emergencies, that was also addressed in the policy in a different place, not in the Overtime section but in Section **7.18 Administrative Leave** and had a subsection that addressed Natural Disasters and stated if the offices were closed during a natural disaster, all employees were granted leave with pay and all employees that were required to work to provide essential services shall receive compensatory leave credits. He added that was something that could be changed and was not a requirement under the Fair Labor Standards Act, just what the existing policy stated.

Chair Viegbesie said they now have an idea of the foundation to work with to develop their own as to how they want to apply employee leave in the County.

Commissioner Taylor said she wanted to go back a little bit because if they have violated what was in place at that time, they needed to correct it. She said if they have a situation like they had previously, and she wanted to say publically, Michael was not historic, Kate was. She said she was of the mindset to put something in place not to allow this to happen again. She said if a salaried employee only works one hour in that pay period, the employee is paid for that salary. When they are telling people that they have a deficit and need to be mindful of expenditures because of costs and then to do something like this, her position tonight was to make sure this never happens again. She added that if they do get into a situation where the County Administrator has to put in overtime for whatever reason, it needs to be Board approved. She said the way it was done previously; it did receive Board approval but it was a lump sum in front of the Commissioners and needs to be broken out so they understand what was being paid. She said she hears what he is saying when he says to move forward, but they were here tonight to make sure something was put in place that protects the Administrator, the County, and the taxpayer dollars moving forward. She said she also believed they needed to have something put in front of them that was broken-down and not a lump sum amount.

Chair Viegbesie said what happened with Michael was why they were there but he did not want this conversation to go to the point of who did what and why and who authorized what. He added if there were things they have observed they feel inappropriate, it's those things they will bring into the conversation to prepare their own policy and procedure.

Commissioner Taylor said her goal for tonight was to have something in place and that something of this nature did not happen again. She said she was of the mindset to put something in place and would like it to become a mandate if overtime is considered by salaried employees, it has to receive prior approval separate from the non-exempt employees. She then asked if she could ask Lonyell Black a question.

**Lonyell Black, HR Director**, appeared before the Board

Commissioner Taylor asked what their Policy book said about exempt and non-exempt employees receiving overtime.

Ms. Black said currently hourly employees or non-exempt employees were those that could receive overtime, any hours worked in excess of 40 hours in a work week and exempt employees do not receive overtime, but can accrue comp time.

Commissioner Morgan asked to define overtime, one and half times regular pay or twice regular pay.

Ms. Black said overtime is time and half for any hours worked in excess of 40 hours in a work week; if someone worked 50 hours, 40 hours would be paid at their regular rate (used example of \$10/hour, 40 hours would be \$400) and the 10 hours in excess of the 40 hours would then be at \$15/hour.

Commissioner Morgan said he was under the impression he heard two times regular pay was being paid out and asked if that happened or not.

Mrs. Jackson said "I'm not sure exactly what happened but the intent was, if someone made \$5.00 an hour, no-body does but I'll use that as an example, and I actually had a slide and maybe I should put..." Commissioner Morgan interrupted and said he wanted to ask that question and Commissioner Taylor had other questions.

Commissioner Taylor asked if there was any language that says double time in their policy and procedure and Ms. Black said no. Commissioner Taylor asked if double time was paid out previously. Ms. Black asked "Paid out previously, at any given time?" Commissioner Taylor said yes. Ms. Black said "No". Commissioner Taylor said Ms. Black looked at this policy and procedure for years and knew it, she said yes. Commissioner Taylor said she was simply trying to be fair and if they have a situation like they had, how could they do that and not go broke, because they could spend a lot of money if they had a period that lasted a long time. She said she wanted to be fair but wanted to be protective of taxpayers' money as well. She said she did not want the term "double pay" to ever come again, she was fine with time and half all day long, for salaried or exempt she wanted to figure out language to be fair. She said she was looking for language when overtime was unavoidable that they (the Board) need to be able to approve it and control it because 147 hours or however many hours, they can't get to that kind of money without the Board being able to...

Ms. Black said when it comes to double time, that was where the misunderstanding came in because the way it was understood by Finance, was everyone was placed on Administrative Leave, hourly and salary employees, everyone got paid for 40 hours under Administrative leave; if there was an employee that was called and required to work like a Public Works employee, if they worked 40 hours, they were paid those 40 hours and the 40 hours for Administrative leave at the regular hourly rate. If they worked anything in excess of 40, then they were paid time and a half. She said she believed that was where the language came in for double time pay. She said they were paid 40 hours Administrative leave-everybody-if someone worked 50 hours, they were paid 40 hours straight time pay in addition to the 40 Administrative leave and then anything in excess of the 40 hours was time and half.

Commissioner Morgan said his specific question to the attorney was the example they were just told, was that in the policy they have now. Mr. Weiss said no.

Chair Viegbesie said that was the question he was going to ask and then asked another question for clarification. He said he thought the reason some people had the notion that some were paid double and said as an example, if he was home on Administrative leave, he got paid, Mrs. Black said yes; he said if he had come to work, then that was over and above his Administrative leave,

which he would be eligible for because the condition has called for closure of operations.

*Commissioner Taylor stepped out at 5:00 p.m.*

He said if he received his Administrative hours and worked, he would be paid for coming to work and did not think that would be considered being paid double. He asked the attorney.

*Commissioner Taylor returned at 5:00 p.m.*

*Commissioner Holt arrived at 5:01 p.m.*

Chair Viegbesie asked if he should be punished for coming to work when already being paid for being home. He said that was his understanding of how the double pay idea came from.

Ms. Black said "Yes, because they were paid for Administrative hours that was automatic and was also paid for physically working.

Commissioner Morgan said he understood this was a historic event and they were faced with things that were not routine. He said he understood they had employees that went above and beyond and should be compensated, he also understood they had an Interim County Administrator who was being faced pretty quickly with different decisions, and felt they had an opportunity to learn from that experience. He said based on what he was hearing and what they were discussing, the Policy they have is fine, he felt they need to adhere to the policy. If there are reasons to have exceptions to the policy, those need to come before the Board to act on that decision after being fully informed on what the exceptions to be considered are. He said that did not happen in the past. He said they were in that situation because she (Administrator) wanted to do the right thing for employees and she was telling them she was going to do what she could for them as opposed to saying "I understand you went above and beyond, let me go to the Board and discuss it with them to see how to respond in the appropriate manner." He said he did not think they needed to change the policy, just adhere to the policy.

Chair Viegbesie said that was what they need to look at.

Commissioner Holt said they need to change the policy, the Sheriff changed theirs as did other departments and other Counties changed theirs. She said the reason they did so was because people came in to work, it was extra and they should get paid for it. She said she could attest to the fact they were working. She said the policy was not in line with what they should be doing.

Commissioner Morgan said to respond, they did take care of those that worked above and beyond, and she was implying if they did not change the policy they did not expect to treat their employees correctly and that was not the case; that was why they were having the discussion about this moving forward. He said because they were not in favor of changing the policy did not mean they did not want to support their employees and he did know what they did during the storm felt they should be compensated appropriately.

Commissioner Holt said she was not implying that, what she meant was when she spoke to others, especially at the Sheriff's Department, they were there for those nights and days, and they said that was why they changed their policy two years ago and the BOCC needed to do the same thing.

She said this was not whether you were behind a computer or in an office, but they were out in the weather.

Commissioner Taylor said there was an Organizational Chart that was adopted by the Board that kicks in when there is an emergency of who was automatically required to come to work and in looking at that Chart, giving EOC where they are on that Chart as well as the Chair, no-one else was required to be there. She said Commissioner Holt stated at a previous meeting that no-one else was required to be there. Commissioner Holt said that was not true and she did not state that. Commissioner Taylor went on to say, there are people that needs to be in place in an emergency, if someone did not need to be there but was there because they felt they needed to be there, that was what they chose to and was not approved to do. She said she agreed with Commissioner Morgan that they did not need to change this, but in the event there is a situation that comes, it needs to come before the Board. She said they have pulled together in a storm and decisions were made. She said they left one night saying if they need to meet again to discuss emergency issues, they were willing to come back in seven days. She added this was pulled and documented by the Deputy Clerk and they never met again. Commissioner Taylor said in going back to the "double time" and how it came to be, it was said "I will get you double time", it was said to the employees, based on what Mrs. Jackson told them. She said it was put into the atmosphere then FAC came back and said "Well, you put it into the atmosphere so you need to make it come to fruition". She said the point she was trying to make going forward is, if they need to put anything in there additional from tonight, it needs to let the contents stay the same but in the event there is an emergency and the salary employees were required and approved by the Board to participate, they need to consider some type of compensation; but it had to be approved, compensation has to be approved and there needs to be a cap on hours for approval because otherwise, if it stayed open and salaried employees making \$105,000 and you change that salary to an hourly salary, that was a lot of money and they need some kind of document as to the actual hours worked. She said she was not willing to change the content, but was willing to add what they needed to add so they were protected and they did not get a lump sum in front of them anymore saying "approve this and take care of them". She said it had to be broken down and if salaried employees were going to be considered for this, their request would have to be separate from that of non-exempt employees.

Chair Viegbesie said this was why this was a brainstorming workshop for policy and the procedures for handling overtime pay. He said he begged to differ that the County Administrator did not need to be at the EOC, they are the Chief Executive Officer and if there are others in the Organizational Chart that was needed for emergencies, the County Administrator would have to be the one giving them direction as to where to go to get the job done. He said they need to add to what they have and they need a procedure to apply to groups in case of an emergency if this happens in the future.

Commissioner Taylor said they own the jail but contract with the Sheriff to run it, EOC has the same contract that they run Emergency Operations. She said their job was to tell the Board what needs to be done. She said it was not the BOCC that has authority, but the EOC agency. She said when she was Chair, she was required to be there but she had no leadership other than what EOC told her to do. She said EOC was the one giving directions, not the Administrator. She said she wanted it to stay as it was but they need to put something in place in case of emergency.

Ms. Black said part of the concern and what needed to be addressed in regards to the policy was in

Section 7.18.4-Natural Disaster "...All employees affected shall be granted leave with pay, and any employees who are required to work to provide essential services shall receive compensatory leave credits". She said this was part of the concern they have, if a person was considered an essential employee and was required to come to work, that means all the time they spend away from their family in the event of a natural disaster or declared emergency, they only will be getting comp time credit. She added that in this situation, where it became a problem for them was they involved FEMA to come in and try to get reimbursement for salary dollars that were paid out because of overtime that was paid as well as other services.

Commissioner Morgan asked why it mattered that was FEMA was involved.

Ms. Black said she was getting to that.

Commissioner Morgan said he was talking about the procedure they used, why did it make a difference as to the procedure they used just because FEMA was involved.

Ms. Black said that was what she was about to say. She said FEMA wanted a copy of their policy. She said in order for them to receive reimbursement, they wanted to see what their policy said as it referenced payment to employees when it came to a natural disaster. She continued and said if their policy said one thing and they did another, they only go by what the policy said.

Commissioner Morgan said they did do something, their policy said one thing and they did something else.

Ms. Black said right.

Commissioner Morgan said "So they are not going to reimburse...."

Ms. Black said that she did not know.

Mrs. Jackson said "No, they have said, ok, I've been quiet the entire time. FEMA has said that they will reimburse, again, before I, it was imperative that I was at the EOC. First of all, we do subcontract with the Sheriff's Office but I want to be very clear, neither the Nation nor the State recognize any of the city managers, neither do they recognize anybody else except the County Manager in that situation. All the briefings, all the phone calls that needed to happen, the briefings, the resources, working with FAC, Florida Association of Counties, they didn't call anybody except me. We are actually doing better than anybody in the State, not just because we have a good debris company, but, and I'm not tooting my own horn, but I didn't learn this until recently, because we had our own debris monitor, which was something the County did not have originally; We are doing better than anybody else. As of two weeks ago, every other County had not cut one tree, not even one tree; we had cut over 88,000 at that point because of what we had in place. The reason why overtime was invoked in this situation, I spoke to the Clerk on October 12<sup>th</sup> and he..."

Chair Viegbesie interrupted and said he wanted to bring them back from the Manager and Clerk conversation as to how they got here. He said he wanted to develop this document and for them to not justify who talked with whom and how they got here.

(Reginald Cunningham, Property Appraiser, stepped to the podium at this point.)

Chair Viegbesie said the HR Director said something as to why they were here. If they could revise or add to the Comp time to some fiduciary compensation, then he thought that disaster time would be taken care of as opposed to saying it would be compensated giving comp time, there should be some fiduciary compensation added to that line and thought that would address a whole lot of this for now.

Mrs. Jackson said comp time has to be compensated at some point if it is not used and Comp time, and asked Ms. Black to explain how it was compensated.

Ms. Black said if an employee separates employment and have comp time on the books, they are paid out for that according to their hourly salary and there is no cap on it, it doesn't go away, if it is not used and sitting there, they have to be paid for it.

Mrs. Jackson said in lots of cases, their essential staff does not get to use their comp time. She said again, in this situation, the only thing that was done was to pay staff at their regular salary rate, up to 40 hours and then after 40 hours that was when time and half kicked in, which was policy. She apologized for not having a full agenda item, but said that Staff had no recommendation of changing the overtime policy, the only recommendation that was being made and if the Board chooses to approve, is on the line item #4, ***Natural Disaster***, and she liked the idea of bringing it before the Board. She said as it currently says, both exempt and non-exempt employees will both receive comp time in the event of a natural disaster. She said she thought if everybody else was getting paid, then those who had to come to work should get paid also, but should probably come before the Board before that was automatically done.

Commissioner Morgan started to speak and Chair Viegbesie said to let Mr. Cunningham speak, since he was at the podium.

**Reginald Cunningham, Property Appraiser**, appeared before the Board and said the reason he was here was he kind of following their policy already and had a problem with where it says "all employees" because some are hourly rate and when they were working during that disaster and away from home that was the only part he had a problem with. He said the salaried employees were a whole different subject. He said his employees did not want comp time, they wanted compensation. (He then returned to his seat.)

Ms. Black said that was what she was indicating that that was the language that they were looking at in changing to where it did not say all employees receive comp time, it will say something to effect that hourly employees during times of natural disaster, will receive overtime pay for the time they worked, whether it be every hour on the hour or after 40 hours, that was the part of the discussion needs to be had and felt that was the language that needed to be changed. She said this would allow for clear direction when things like this happen as to how employees were paid and not going back and forth between our staff and the Clerk's staff.

(Mr. Cunningham re-appeared at the podium.)

Mr. Cunningham said the confusing part came with the "double-double" thing. He said when you have ten employees on administrative leave with pay and the other ten was supposedly on

administrative leave as well, but got called back to work and was where the confusion from the Clerk's Office came from, what to do with administrative leave. He said some dialogue has got to go through the Clerk's office as well on how to compensate administrative leave for some employees and some got administrative leave and overtime.

Commissioner Morgan asked why that was confusing, it was two different things.

Mr. Cunningham said he did not know if it was a legal thing with the administrative leave, because you had some employees with administrative and some with (inaudible) so therefore they were going to get the administrative leave as well so they (inaudible). Commissioner Morgan said he did not know why they could, it was two different things, one was administrative leave and one was not. Commissioner Morgan said to him it seemed pretty clear in the policy and did not see any confusion.

Commissioner Holt said they need to clear up the language and make sure people are paid. She said they have to pay it anyway. Commissioner Morgan said they were getting paid. Commissioner Holt said she understood what he was saying, but, if they come in to work, they should get paid for working, even though they were on leave. She said that was the part that was the contradiction across the street. She said it was very simple to look at when you think about it. If the Sheriff's Department changed their policy, they are County employees and they got paid and there was no contradiction. She said for them to look at what he has and adopt it and be through with it. She said the language needs to be cleaned up and don't need contradiction going across the street. She said if they need to agenda the item, do it and move on. She said the Comp time part needs to be taken care of because the employees do not want comp time, they want to get paid.

Commissioner Taylor said she thinks it's clear they did this blind with paying employees the \$129,000. She said there was no doubt that if they worked, they want the pay. She said she felt what needs to happen is whenever it comes up, it has to get Board approval that was why the Clerk would not pay, according to the Clerk. Once the Board approved it that night, she said she did not think it was a matter of time before everyone was compensated. He still had heartburn to do it, but once they had board approval, it moved through the process. She said there would still be situations where regular, non-exempt employees will earn comp time as opposed to pay. She said further, anything that impacts the budget, has to come before Board, the Clerk expects it. She said if she had someone that was going to run out and get something and spend 1 ½ hour, then comp time will suffice, to take the language completely out, will defeat the original purpose. She said to not compensate when they had a situation such as Michael, that should be a Board decision and that language should go in there. She said to add if overtime was to be paid, it must be Board approved. She further stated if there was any type of overtime compensation, then it was to come before the Board. She said it was clearly stated and thought the attorney could attest, anytime anything impacted the budget, it was to come before them. She said if they give out time and a half or double time that impacted the budget because they base their budget on regular salaries, not time and a half. She said if they changed anything, she wanted to make sure that it would come before the Board before it moved forward and they could have erased a lot of time lost and gotten employees money a lot sooner and not the feeling of being betrayed by the County Administrator and she trying to gather the Board together and Ms. Black doing her job because she told them what policy said. She said in the future; put language in to bring to the Board for approval, let it stay as it is that if it impacts the budget, it be brought to the Board.



Commissioner Holt said she thought they should eliminate the comp time in a natural disaster and in this case, that was what it was. She said they had been affected by other hurricanes but not on this scale. She said they needed to clean up the language, take out the comp time and put the pay in they want them to have. She said she wanted to make sure they understood that the Sheriff was not going to sign off on the debris removal nor was the EOC because it was a \$60 Million contract. She said the Manager and the Chair had to be there. She further stated this was a situation where they needed the Road and Bridge people out there with the equipment.

Commissioner Morgan said they could take a look at the Sheriff's policy, have a meeting with Ms. Black representing the County with their current policy, someone from Sheriff's office that was familiar with their policy and someone from Clerk's office and have one meeting to discuss the benefits of both policies and possible changes they want to adopt and have clear communication with Clerk's office, letting them be there, have people sign off they are at the meeting, take minutes at the meeting and any concerns from that meeting have a follow-up meeting to where everyone on same page with the policy being recommended and bring that back before Board, have another workshop and then have it Agendaed to vote.

Chair Viegbesie asked Mr. Cunningham if he was at the podium for input or giving Ms. Black moral support. He said he was giving her moral support.

Commissioner Taylor said the \$60 Million contract should have been brought to the Board that was a lot of money to put this county up for. She said she was aware they had to make some quick decisions had to be made, but most important, not necessarily the debris collection but getting utilities restored, but it was a lot of money. She added if they did not have the agreement that DOT gave them, they would have been on the hook trying to get reimbursement for money and they were was blessed with that situation.

*Commissioner Morgan stepped out at 5:37.*

She said she did not agree that they needed to do anything additional to the policy, just need to add language so that what happened in the past does not happen in the future and she said that was to seek Board approval before making any agreement to do anything so they would not be blindsided.

Mrs. Jackson said to be clear, to whoever was on the Board in 2015, they had two companies that were given the contract by the 2015 Board of County Commissioners, she did not pick the companies.

Commissioner Holt said the "push" had to start the next day to get trees out of highways.

Chair Viegbesie said they have met, discussed and from what he was hearing, he thought the only part of the document that needed to be tweaked is language added for natural disasters and compensation, whether it be comp time or monetary compensation and how it should be done. He said he was going to go with Commissioner Morgan and agreed that Ms. Black, the attorney, a representative from the Sheriff's Department and the Clerk meet, discuss, have another workshop and then put it back on the agenda.

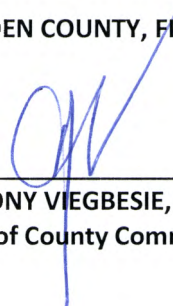
Gadsden County Board of County Commissioners  
December 18, 2018-Overtime Workshop

**CITIZENS REQUESTING TO BE HEARD ON NON-AGENDA ITEMS**

**MOTION TO ADJOURN**

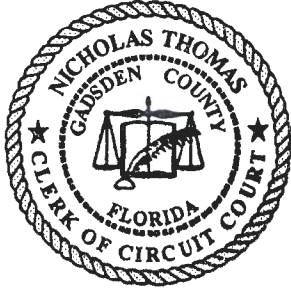
**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, THE CHAIR DECLARED THE WORKSHOP ADJOURNED AT 5:40 P.M.**

GADSDEN COUNTY, FLORIDA




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**ANTHONY VIEGBESIE, Chair  
Board of County Commissioners**



ATTEST:



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**NICHOLAS THOMAS, Clerk**